IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 32223 of 2006(J)

PETITIONER:

KERALA SPONGE IRON LIMITED,
12/1324 (19), II FLOOR, ASR PLAZA,
PRIYADARSINI ROAD, PALAKKAD, REP. BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.V.GIRI

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY, INDUSTRIES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM.

3. ASST.EXECUTIVE ENGINEER,
KSEB SECTION OFFICE, KANJIKODE, PALAKKAD.

4. EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, PALAKKAD.

5. ASST.EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, KALPATHY.

6. THE ASST.ENGINEER,
ELECTRICAL SECTION, OLAVAKODE.

7. THE DY. CHIEF ENGINEER,
ELECTRICAL CIRCLE, PALAKKAD.

8. CHIEF ENGINEER,
ELECTRICAL DIVISION, NORTH, KOZHIKODE.

9. ASST. ENGINEER,
ELECTRICAL SECTION, MALAMPUZHA.

10. ELECTRICAL INSPECTOR, PALAKKAD.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE REQUEST SENT TO THIRD RESPONDENT ON 4.2.2004 BY PETITIONER.

EXT.P2 TRUE COPY OF THE LETTER SENT BY DY. CHIEF ENGINEER, KSEB TO SOUTHERN ISPAT LIMITED DSATED 27.2.2004.

EXT.P3 TRUE COPY OF THE RECEIPT NO. 329 DSATED 8.3.2004 ISSUED BY KSEB

EXT.P4 TRUE COPY OF THE COMMUNICATION SENT BY EXECUTIVE ENGINEER IN CHARGE (COMMERCIAL) DSATED 10.2.2004 TO SOUTHERN ISPAT LIMITED.

EXT.P5 TRUE COPY OF THE COMMUNICSATION SENT BY CHIEF ENGINEER TO DY. CHIEF ENGINEER SDATED 1.10.2004 TO COLLECT SECURITY DEPOSIT.

EXT.P6 TRUE COPY OF THE COMMUNICATION BEARING NO. DB1/HT/SOUTHERN ISPAT/II/2004/1869 DATED 16.11.2004 SENT BY 7TH RESPONDENT TO M/S. SOUTHERN ISPAT LIMITED.

EXT.P7 TRUE COPY OF THE DD EVIDENCING REMITTANCE OF ADVANCE DEPOSIT OF RS. 62,000/- DATED 13.1.2005

EXT.P8 TRUE COPY OF THE COVERING LETTER ENCLOSING EXT.P7

EXT.P9 TRUE COPY OF THE COMMUNICATION SENT BY PETITIONER DATED 25.1.2005 TO 6TH RESPONDENT.

EXT.P10 TRUE COPY OF THE COMMUNICATION FROM ASST. ENGINEER DATED 2.3.2005 REQUESTING REMITTANCE OF RS. 3,71,000/- TOWARDS OYEC CHARGES.

EXT.P11 TRUE COPY OF THE COVERING LETTER SENT BY PETITIONER ENCLOSING DD FOR RS. 3,71,000/- AS DEMANDED IN EXT.P10 DATED 9.3.2005

EXT.P12 TRUE COPY OF THE RECEIPTS ISSUED BY KSEB ACKNOWLEDGING RECEIPT OF RS. 3,71,000/-.

EXT.P13 TRUE COPY OF THE LETTER SENT BY PETITIONER TO DY. CHIEF ENGINEER ON 10.3.2005

EXT.P14 TRUE COPY OF THE COMMUNICATION SENT BY PETITIONER TO CHIEF ENGINEER DATED 20.5.2005

EXT.P15 TRUE COPY OF THE COMMUNICATION DATED 19.8.2005 FROM KSEB ALLOCATING POWER TO THE PETITIONER.

EXT.P16 TRUE COPY OF THEREQUEST DATED 19.1.2006 MADE BY PETITIONER TO CHIEF ENGINEER, KSEB

EXT.P17 TRUE COPY OF THE COMMUNICATION DATED 5./7.2006 EXTENDING VALIDITY OF POWER ALLOCATION.

EXT.P18 TRUE COPY OF THE INITMATION SENT BY PETITIONER TO DY. CHIEF ENGINEER DATED 10.7.2006 REGRDING REMITTANCE OF DEMAND CHARGES.

EXT.P19 TRUE COPY OF THE RECEIPT NO. 41 ISSUED BY KSEB RELATING TO PAYMENT FOR DEMAND CHARGES.

EXT.P20 TRUE COPY OF THE COMMUNICATION SENT BY KSEB EXTENDING THE VALIDITY OF THE POWER ALLOCATION DATED 28.7.2006

EXT.P21 TRUE COPY OF THE PROCEEDINGS OF THE ELECTRICAL INSPECTOR DATED 30.9.2006

EXT.P22 TRUE COPY OF THE COMMUNICATION ISSUED BY 5TH RESPONDENT TO THE 4TH RESPONDENT DATED 17.10.2006

EXT.P23 TRUE COPY OF THE COMMUNICATION ISSUED BY 9TH RESPONDENT TO THE 5TH RESPONDENT DATED 13.10.2006

EXT.P24 TRUE COPY OF THE ORDER BEARING NO. B1-1968/2006 E 1 P DATED 16.9.2006 OF THE 10TH RESPONDENT.

EXT.P25 TRUE COPY OF THE RECEIPT EVIDENCING REMITTANCE OF REQUISITE FREES FOR APPLICATION AS WELL AS PROCESSING ITS APPLICATION FOR GRANT OF PERMANENT CONNECTION BEFORE THE OFFICE OF THE 9TH RESPONDENT.

EXT.P26 TRUE COPY OF THE ORDER DATED 4.4.2007 OF THE ELECTRICAL INSPECTOR GRANTED PROVISIONAL SANCTION TO ENERGISE THE PETITIONER'S UNIT.

EXT.P27 TRUE COPY OF THE CONSENT DATED 3.4.2007 VALID UPTO 31.12.2009 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.

EXT.P28 TRUE COPY OF THE COMMUNICATION SENT BY ASST. EXE. ENGINEER DATED 20.1.2005

EXT.P29 TRUE COPY OF THE COMMUNICATION DATED 9.4.2007 IN ANSWER TO EXT.R7(c)

EXT.P30 TRUE COPY OF THE APPLICATION DATED 10.4.2007 FILED BEFORE THE SECRETARY, PUDUSSERY GRAMA PANCHAYATH.

EXT.P31 TRUE COPY OF THE ORDER OF THE CHIEF ELECTRICAL INSPECTOR OF THE GOVT. OF KERALA DATED 24.5.2007

7TH RESPONDENT'S EXHIBITS:

EXT.R7(a) TRUE COPY OF LETTER FROM DFO, PALAKKAD.

EXT.R7(b) TRUE COPY OF GOVT. LETTER DATED 17.11.2005

EXT.R7(c) TRUE COPY OF LETTER DATED 7.11.2006 ISSUED TO PETITIONER.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 32223 OF 2006

Dated this the 16th day of July, 2007

JUDGMENT

The prayer in the Writ Petition is for direction to the Kerala State Electricity Board to give power connection to the industrial unit set up by the petitioner. Standing counsel for KSEB referred to Ext.R7(b) issued by the Government on 17.11.2005 stating that further permission should not be given to start new Steel and allied industries in Palakkad, Kanjikode, Walayar areas from 1.10.2005 onwards. However, petitioner has produced Ext.P15 which is power allocation granted by the KSEB way back on 19.8.2005. It seems petitioner delayed construction of the project and two extensions were given by the KSEB. However, petitioner has now completed the project. The Electrical Inspectorate permitted provisionally for energising the installation vide Ext.P21 dated 30.9.2006. Final sanction is granted by the Chief Electrical Inspectorate on 24.5.2007 vide Ext.P31. The local KSEB Engineer vide Ext.P23 dated 13.10.2006 stated that power supply can be given to the petitioner's unit without any alteration to the

system. Contract demand is only 750KVA and the industry is not power intensive unit.

2. Even though notice was served on the State Government, no counter affidavit is filed. It is also clear from Ext.R7(b) that prohibition is against industries set up after 1.10.2005. As early as on 19.8.2005 power allocation was granted vide Ext.P15. All the authorities, such as Pollution Control Board, Chief Electrical Inspectorate, have proceeded to grant sanction on the assumption that Government orders did not stand in the way of petitioner starting the industry. In the circumstances and since power allocation is already granted to the petitioner prior to prohibition introduced by Government vide Ext.R7(b), W.P. is disposed of directing the Electricity Board to give supply to the petitioner's unit on petitioner complying with all formalities without any delay and in any case within one month from the date of receipt of a copy of this judgment.

(C.N.RAMACHANDRAN NAIR)
Judge